

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Annual Compliance Review, 2021

Docket No. ACR2021

CHAIRMAN'S INFORMATION REQUEST NO. 24

(Issued March 9, 2022)

To clarify the Postal Service's FY 2021 Annual Performance Report (*FY 2021 Report*) and FY 2022 Annual Performance Plan (*FY 2022 Plan*),¹ the Postal Service is requested to provide written responses to the following requests. Answers should be provided to individual requests as soon as they are developed, but no later than March 16, 2022.

Financial Health

1. In the *FY 2021 Annual Report*, the Postal Service continues its past practice of using Controllable Income (Loss), rather than net income (loss), as the performance indicator for the Financial Health performance goal. *FY 2021 Annual Report* at 46. Controllable Income (Loss) is a non-GAAP accounting measure that excludes certain expenses that the Postal Service considers "not reflective of short-term operational decisions and . . . subject to large fluctuations outside the organization's control." *Id.* These expenses include: revaluations of the Postal Service Retiree Health Benefits Fund (PSRHBF) normal cost; the amortization of the Postal Service's unfunded PSRHBF liabilities; the amortization of unfunded liabilities for the Postal Service's participation in the Federal Employees Retirement System (FERS) and Civil Service Retirement

¹ The *FY 2021 Report* and *FY 2022 Plan* are included in the Postal Service's FY 2021 *Annual Report to Congress*, which the Postal Service filed with the FY 2021 *Annual Compliance Report*. See Library Reference USPS-FY21-17, December 29, 2021, folder "USPS-FY21-17," folder "FY21.17.Annual.Report," file "FY 2021 Annual Report to Congress.pdf" (*FY 2021 Annual Report*).

System (CSRS); and non-cash expenses related to changes in the liability for participation in the Federal workers' compensation program. *Id.*

- a. In Order No. 5763, issued in FY 2021, the Commission authorized the Postal Service to begin using various discrete forms of above-CPI rate authority intended to remedy what the Commission found to be specific deficiencies in the postal ratemaking system.² One of the specific forms of above-CPI rate authority that the Commission authorized was retirement-based rate authority. *Id.* at 100-31. This rate authority was designed to provide the Postal Service with revenue to address statutorily mandated amortization payments for retirement costs, which the Commission determined were beyond the Postal Service's control.³ In the first rate adjustment proceeding following implementation of the rule changes promulgated in Order No. 5763, the Postal Service made use of the full amount of retirement-based rate authority available to it—1.062 percentage points.⁴ Considering the foregoing, please explain the Postal Service's basis for continuing to classify the amortization of the Postal Service's unfunded PSRHBf liabilities and the amortization of unfunded liabilities for participation FERS and CSRS as non-controllable expenses.
- b. In addition to retirement-based rate authority, Order No. 5763 also provided the Postal Service with other discrete forms of above-CPI rate

² Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

³ *Id.* The Commission notes that as of March 8, 2022, the Postal Service Reform Act of 2022, H.R. 3076, 117th Cong. (2022), has been passed by both the House of Representatives and the Senate. This postal reform legislation includes, *inter alia*, the USPS Fairness Act, which would amend existing 5 U.S.C. § 8909a by cancelling any remaining financial obligation on the Postal Service's part with respect to the PSRHBf prefunding requirement from the Postal Accountability and Enhancement Act of 2006 (PAEA). H.R. 3076, 117th Cong. § 102(c) (2022); see PAEA § 803(a), Pub. L. 109-435, 120 Stat. 3198, 3251-3252 (2006). As the Commission explained in Order No. 5763, should the Postal Service Reform Act of 2022 be enacted into law, the Commission will exercise its rulemaking authority to make any necessary modifications to the retirement-based rate authority. Order No. 5763 at 318 n.403.

⁴ See Docket No. ACR2020, Determination of Available Market Dominant Rate Authority, April 6, 2021, at 4-6 (Order No. 5861); Docket No. R2021-2, United States Postal Service Notice of Market Dominant Price Change, May 28, 2021, at 3.

authority, including density-based rate authority and rate authority for non-compensatory products and classes. Order No. 5763 at 72-99, 181-97. In Docket No. R2021-2, the Postal Service made use of the full amount of rate authority available to it under these mechanisms.⁵ Given these changes in the Postal Service's revenue position, please explain what consideration, if any, the Postal Service has given to using a standard GAAP measure such as net income (loss) as a performance indicator for the Financial Health performance goal, rather than Controllable Income (Loss).

2. The CARES Act, Pub. L. 116-636 (March 27, 2020), provided the Postal Service with \$10 billion in additional borrowing authority, in addition to the \$15 billion ordinarily available to it pursuant to 39 U.S.C. § 2005(a), if necessary to cover increased operating expenses associated with the COVID-19 pandemic.⁶ Appropriations legislation enacted on December 27, 2020 removed the requirement that the Postal Service repay funds borrowed pursuant to the CARES Act.⁷ The Postal Service reported that as of July 29, 2021, all \$10 billion had been received from the U.S. Treasury.⁸ Please refer to the tables on pages 24 and 47 of the *FY 2021 Annual Report* and explain whether, and if so, how, they account for the \$10 billion that the Postal Service received in FY 2021.

By the Chairman.

Michael Kubayanda

⁵ See Order No. 5861 at 2-4, 6; Docket No. R2021-2, United States Postal Service Notice of Market-Dominant Price Change, May 28, 2021, at 3.

⁶ Pub. L. 116-636 § 6001(b).

⁷ Pub. L. 116-260, Division N, Title VIII, § 801, 134 Stat. 1182, 2119 (December 27, 2020).

⁸ United States Postal Service, Annual Report on Form 10-K, November 10, 2021, at 3 (FY 2021 10-K).